IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.3364 OF 2005

K.G.K.Rao ...Applicant

V/s.
The State of Maharashtra ...Respondents.

Mr.Shirdhankar with Mr.Vikas Mali for the applicant.
Ms. Rajashree Gadhavi , APP for the State.
Mr.Uday Warunjikar for the investor.

CORAM: **ABHAY S. OKA, J.**
DATE: **6TH JUNE, 2005.**

P.C.

1. Heard the Learned Counsel appearing for the applicant and the Learned APP for the State. Shri Warunjikar appears for the investors. Shri Warunjikar prays that he may be permitted to address the Court. In view of the order which I propose to pass, I have not adjudicated upon the request of Shri Warunjikar on merits.
2. The present application is for anticipatory bail. The applicant moved an application before the Learned Sessions Judge for

anticipatory bail which was rejected on 29th April, 2005. The Learned Sessions Judge has noted in the order that this Court has passed an order dated 27th April, 2005 in Criminal Application no.2445/05 and other connected applications directing that the Sessions Court shall ensure that the applications for anticipatory bail are heard only after insisting for presence of the applicants in the Court at the time of hearing of the said applications. The Learned Sessions Judge has noted that the applicant herein was not present inspite of directions given by this Court and therefore, application for anticipatory bail filed by the applicant is rejected.

3. The Learned APP appearing for the State has fairly stated that the applicant herein was not a party to any of the criminal applications which were disposed of by order dated 27th April, 2005 by this Court and therefore, direction which is given by the said order was not applicable in case of the applicant. The learned APP therefore, submitted that the Learned Sessions Judge could not have relied upon the order dated 27th April,

2005. The learned APP suggested that this Court may pass an order directing the learned Sessions Judge to hear the application of the applicant afresh after ensuring that the applicant is present at the time of hearing of the application.

4. In my view, suggestion made by the Learned APP is fair and reasonable. The Learned APP states that in the meanwhile, the applicant should co-operate with the investigating officer and should remain present at the police station for investigation.

5. In view of the statements made by the Learned APP , I pass the following order:

ORDER

(i) The order dated 29th April, 2005 passed by the Learned Second Additional Sessions Judge, Sangli is quashed and set aside on the ground that the application made by the applicant is not heard on merits.

(ii) The applicant will remain present before the Learned Second Additional Sessions Judge on 15th June, 2005 at 11.00 a.m. The Learned Additional Sessions Judge will decide the Criminal

Miscellaneous Application no.199/05 made by the applicant within a period of one week from that date. The Learned Additional Sessions Judge shall ensure that the application is heard only after insisting for presence of the applicant in his Court at the time of hearing of the said application.

(iii)Till the disposal of the said application by the Learned Additional Sessions Judge, the applicant shall not be arrested in connection with C.R.NO.11/05 registered at MIDC, Kupwad Police Station, District-Sangli, subject to the condition that the applicant will attend the said police station on 9th, 11th and 13th of June, 2005 from 11.00 a.m. to 2.00 p.m. and will co-operate with the investigating officer.

(iv) It is made clear that if the applicant complies with the requirement of remaining present at the time of hearing of the application before the Learned Additional Sessions Judge, his application will be decided by the Learned Sessions Judge on its own merits without being influenced by ad-interim order passed by this Court.

(v)Parties concerned to act on an authenticated copy of this order.

Judge.